

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

In re:

LLS AMERICA, LLC,  
  
Debtor.

NO: CV-12-431- RMP

Bankruptcy No: 09-06194-PCW11

Adversary No: 11-80136

BRUCE P. KRIEGMAN, solely in his  
capacity as court-appointed Chapter 11  
Trustee for LLS America LLC,

Plaintiff,

vs.

MARTIN HORCICKA,

Defendant.

ORDER GRANTING MOTION FOR  
DEFAULT AND JUDGMENT

Before the Court is bankruptcy trustee Bruce P. Kriegman's Motion for Entry of Default and Judgment, ECF No. 4. The Court has reviewed the motion, its attachments, the Court's file, and the Bankruptcy Court's file for the adversary action 11-80136-PCW11.

1 This case arose as an adversary action as part of the bankruptcy of LLS  
2 America, LLC. This Court withdrew the reference to this action, set a trial date,  
3 and referred the matter back to the Bankruptcy Court for that court to address  
4 pretrial matters. The Bankruptcy Court entered orders granting the Bankruptcy  
5 Trustee's motions for default and for default judgment. The trustee now moves  
6 this Court for entry of default and default judgment.

7 "When a party against whom a judgment for affirmative relief is sought has  
8 failed to plead or otherwise defend, and that failure is shown by affidavit or  
9 otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 54(a). "If the  
10 plaintiff's claim is for a sum certain or a sum that can be made certain by  
11 computation, the clerk—on the plaintiff's request, with an affidavit showing the  
12 amount due—must enter judgment for that amount and costs against a defendant  
13 who has been defaulted for not appearing." Fed. R. Civ. P. 54(b).

14 Pursuant to the Court's order on motion for withdrawal of reference, this  
15 Court will treat the Bankruptcy Court's orders entering default and default  
16 judgment as proposed findings of fact and conclusions of law. The instant motion  
17 was filed on August 27, 2012. The Defendants have filed no objection. After a  
18 review of the record before this Court and the bankruptcy court, the Court  
19 concludes that default is appropriate and default judgment shall be entered.

20 / / /

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. The trustee's Motion for Entry of Default and Judgment, ECF No. 4, is

3 **GRANTED.**

4 2. Defendant Martin Horcicka is in default, and default of said Defendant is  
5 hereby entered.

6 3. The Court will enter default judgment by separate order.

7 **IT IS SO ORDERED.**

8 The District Court Executive is hereby directed to enter this Order and to  
9 provide copies to counsel and to the Honorable Patricia C. Williams, Bankruptcy  
10 Judge.

11 **DATED** this 31st day of October 2012.

12  
13 *s/ Rosanna Malouf Peterson*  
14 ROSANNA MALOUF PETERSON  
15 Chief United States District Court Judge  
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